

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-1952

Jianzhong Shi,
Petitioner

v.

Attorney General of the United States,
Respondent

(BIA No. A95-476-611)

Present: SCIRICA, Chief Judge, SLOVITER, McKEE,
RENDELL, BARRY, AMBRO, FUENTES, SMITH, FISHER,
CHAGARES, JORDAN, HARDIMAN and GREENBERG, Circuit Judges

O R D E R

The above-captioned matter was scheduled for review en banc. On September 4, 2007, the Attorney General ordered the Board of Immigration Appeals to refer the matter to him for review, under 8 C.F.R. § 1003.1(h)(1)(i) (2006). Attorney General Order No. 2905-2007. Respondent thereafter requested we dismiss the petition for lack of jurisdiction.

Respondent's motion to dismiss is granted, and the case is remanded to the Board of Immigration Appeals for proceedings consistent with the Attorney General's referral order and 8 C.F.R. § 1003.1(h). *Cf. Venen v. Sweet*, 758 F.2d 117 (3d Cir. 1985). The Board's order in this matter is automatically stayed pending the Attorney General's review, *see Matter of Haddam*, A.G. Order No. 2380-2001 (2001), and "is neither final

nor effective,” *Matter of E-L-H-*, 23 I. & N. Dec. 814, 821 (BIA 2005) (quoting Attorney General Order No. 2380-2001 in *Matter of A-H-*, 23 I. & N. Dec. 700, 701-02 (A.G. 2001)). We grant this order of remand without prejudice to the petitioner’s filing a new petition for review or motion to reopen this appeal within thirty (30) days of any new order of removal issued by the Board of Immigration Appeals.

BY THE COURT,

/s/ Anthony J. Scirica
Chief Judge

DATED: October 24, 2007
CMH/cc: JZ, QVB, THD, PDH, JP